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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,375	09/16/2003	Eyal Teichman	08875.0009-00000	9406

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EXAMINER

MICHENER, JENNIFER KOLB

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/662,375	<b>Applicant(s)</b> TEICHMAN, EYAL	
	<b>Examiner</b> Jennifer K. Michener	<b>Art Unit</b> 1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-19 is/are pending in the application.  
4a) Of the above claim(s) 11-14, 18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. The objection to claim 17 is withdrawn, based on Applicant's inclusion of claim 10, from which 17 depends, in the elected species group. Claim 10 is now included in the rejection, below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9-10 and 15-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There does not appear to be basis in the originally-filed specification for the newly-added limitation of "adjusting at least one application parameter... such that said coating materials flows over said exposed strut surfaces and the periphery to form a substantially uniform coating on said exposed strut surfaces". The specification does not disclose adjustments to application parameters or the use thereof to cause a uniform coating. Original claim 17 teaches that the specific adjustment of drop size and drop velocity achieves full strut

encapsulation, however, there is no basis to broadly claim, in claim 9, that the adjustment of at least one parameter (i.e., any parameter) will cause a "substantially uniform coating". Claim 17 also does not provide basis for claiming, in claim 9, that such parameters have an impact on the flow of the material.

***Claim Rejections - 35 USC § 102***

4. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Castro (6,395,326).

Examiner maintains the rejection of claim 9, as outlined in the previous office action.

Claim 10 has now been included in this rejection, as explained above, because Castro teaches positioning the applicator on the exterior of the stent.

Regarding the newly added limitations of claim 9, as outlined in the previous office action, Castro teaches that an orifice larger than the width of the strut may be used to cover the stent surface completely (col. 9, lines 21-24; col. 16, lines 58-61). This represents an adjustment of an application parameter and coating in accordance with the adjusted parameter such that coating flows over the strut and periphery to form a uniform coating on the exposed surfaces.

5. The rejection of claim 9 under 35 U.S.C. 102(e) as being anticipated by Zhong et al. (6,676,987) has been withdrawn based on Applicant's amendments and arguments.

***Claim Rejections - 35 USC § 103***

6. Claims 17 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castro.

Examiner maintains the rejection of the previous office action.

***Response to Arguments***

7. Applicant's arguments filed 12/2005 have been fully considered but they are not persuasive.

Applicant's arguments regarding the Castro reference have been addressed in the rejection above.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer K. Michener whose telephone number is (571) 272-1424. The examiner can normally be reached on Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**JENNIFER MICHENER**  
**PRIMARY EXAMINER**

Art Unit 1762  
March 6, 2005